IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

S.B.CRIMINAL MISC. PETITION NO. 918/2006
(Ram Kumar & Ors. Vs. State of Rajasthan & Anr.)

Date of Order : 12/10/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. R.S.Choudhary for the petitioners.
Mr. Ashok Upadhyay, public prosecutor.
Mr. Bagrawat Singh for the non-petitioner No.2.

BY THE COURT:-

This criminal misc. petition under Section 482 Cr.P.C. is directed against the order dated 28.6.2006 passed by Additional Sessions Judge, Bhadra, district Hanumangarh (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioners against the order dated 5.1.2005 passed by Additional Chief Judicial Magistrate, Bhadra (for short 'the trial court' hereinafter) was dismissed.

I have heard learned counsel for the parties. Carefully gone through the orders passed by the trial court and the revisional court. I have also carefully gone through the statement of injured PW-1Balveer and PW-2 Jagdish as also their injury reports.

In the first information report, as many as 12 persons were named by the complainant, however, after investigation, the police filed challan against four persons namely Ramsingh, Subhash, Leeladhar and Rajveer. During the trial of the case, the prosecution examined two witnesses PW-1 Balveer and PW-2 Jagdish who are the injured persons and thereafter, filed an application under Section 319 Cr.P.C. for arraigning the present petitioners as accused who have not been challaned by the police and sought to be tried along with the four accused facing trial. The trial court by order dated 5.1.2005 allowed the application and arraigned the present petitioners as accused sought to be tried along with the accused facing trial. That order came to be challenged by the petitioners before the revisional court. The revisional court also did not interfere with the order of the trial court and dismissed the revision.

On careful perusal of the statements of injured and their injury reports, it appears that there is specific allegation against the present petitioners No.1 Ram Kumar and petitioner No.4 Tara Chand who alleged to have inflicted injuries to PW-1 Balveer as also there is allegation of inflicting injury to PW-2 Jagdish against petitioner No.2 Phoola Ram. So far as the other petitioners are concerned, there is no specific allegation. However, there is omnibus allegation that they inflicted injuries

by fists. But on perusal of the injury report, no such injury is found on the person of the injured persons. In the circumstances, therefore, the trial court was justified in arraigning the petitioner No.1 Ram Kumar, petitioner No.2 Phoola Ram and petitioner No.4 Tarachand as accused sought to be tried along with the accused facing trial.

However, there being no sufficient material to proceed against petitioner No. 3 Viresh Chandra, petitioner No.5 Om Prakash, petitioner No.6 Goverdhan, petitioner No.7 Banwari and petitioner No.8 Sundar and therefore, the order passed by the trial court and the order passed by the revisional court affirming the order of the trial court taking cognizance and arraigning petitioners No. 3,5,6,7 and 8 cannot be sustained.

In the result, the petition is partly allowed. The order passed by the trial court dated 5.1.2005 and the order passed by the revisional court dated 28.6.2006 affirming the order of the trial court, qua petitioner No. 3 Viresh Chandra, No.5 Om Prakash, No.6 Goverdhan, No.7 Banwari and No.8 Sundar are set aside.

(H.R.PANWAR),J.

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